

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF MICHIGAN, SOUTHERN DIVISION**

In re:)
Leslie Fernandez)
aka Leslie Fernandez-Lopez) **Case No.: 14-01520**
) **Chapter 13**
) **Honorable Scott W. Dales**
))
Leslie Fernandez)
aka Leslie Fernandez-Lopez)
))
Plaintiff)
) **Adversary Proceeding No.**
v.) **20-80069-swd**
))
NATIONAL COLLEGIATE STUDENT)
LOAN TRUST 2006-2, a Delaware)
Statutory Trust, Shermeta Law Group,)
PLLC, and Tricia N. McKinnon,)
))
Defendants.)
))

MOTION TO FILE EXHIBIT A-4 TO SUMMARY JUDGMENT MOTION
UNDER SEAL AND DESIGNATE CONFIDENTIAL

NOW COMES Defendant, National Collegiate Student Loan Trust 2006-2 (“NCSLT”), by and through undersigned counsel, and respectfully moves for leave to file under seal the Guaranty Agreement between The Education Resources Institute, Inc. (“TERI”) and Bank One, National Association (JP Morgan Chase Bank, N.A. as successor in interest) attached to NCSLT’s motion for summary judgment as **Exhibit A-4**.

“It is well established that this Court, as every other court, ‘has supervisory power over its own records and files.’” *Cristini v. City of Warren*, 2011 WL 5304566, at *1 (E.D. Mich. Nov. 3, 2011) (*quoting Nixon v. Warner Commc’ns Inc.*, 435 U.S. 589, 598 (1978)). “Such authority includes fashioning protective orders that limit access to certain court documents.” *Id.* (*citing* Fed. R. Civ. P. 26(c)). “But the district court’s power to seal

records is subject to the ‘long-established legal tradition’ of open access to court documents.” *Id.* (citing *Brown & Williamson Tobacco Corp. v. F.T.C.*, 710 F.2d 1165, 1177 (6th Cir. 1983)).

The Guaranty Agreement contains a reference that “th[e] Agreement contains confidential & proprietary information and may not be disclosed without the consent of both parties or as required by law.” NCSLT does not have the consent of any of the parties to the agreements to disclose the agreements publicly.

The document is being presented for the limited purpose of providing additional support, in conjunction with other documents being file with the motion, that TERI guaranteed the Education One Undergraduate Loan Program, which issued the Loan at issue in this adversary proceeding. The same or similar Guarantee Agreement has been submitted under seal as approved by at least two other courts. *In Re Greer-Allen*, USBC Massachusetts, Case No. 17-01129, Docket No. 52-53; *In Re Foster*, USBC Eastern District of New York, Case No. 20-ap-01098, Docket Nos. 10 & 19.

The undersigned counsel certifies that pursuant to W.D. Mich. LR 7.1(d), counsel sought concurrence in the relief sought and the motion will be opposed. The agreement will be produced to plaintiff’s counsel and designated confidential. NCSLT possesses the agreements as the owner of debtor’s loan.

On that basis, NCSLT asserts that there is good and sufficient cause for the motion.

NCSLT requests that the document be destroyed sixty (60) days after the entry of a final order in this matter.

WHEREFORE, Defendants National Collegiate Student Loan Trust 2006-2 moves for leave to file under seal the Guaranty Agreement between The Education Resources

Institute, Inc. and Bank One, National Association (JP Morgan Chase Bank, N.A. as successor in interest) attached to NCSLT's motion for summary judgment as **Exhibit A-4**, and to have same designated confidential.

Respectfully Submitted,

/s/ Deborah A. Lujan

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Attorneys for Defendants
National Collegiate Student Loan Trust 2006-2

CERTIFICATE OF SERVICE

I certify that the Motion to File Under Seal has been served on all counsel of record on October 8, 2021, by the Court's ECF system.

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